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| EXAMINER |
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DEL SOLE, JOSEPH S

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| ART UNIT | PAPER NUMBER |
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1722

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/030,567

Applicant(s)

FARNSWORTH ET AL.

Examiner

Joseph S. Del Sole

Art Unit

1722

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached Office action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Joseph S. Del Sole
9/8/05
Joseph S. Del Sole

RESPONSE TO AFTER FINAL REMARKS

The following is a restatement of previous rejections which remain in the present Application. The Examiner will address the new arguments of 9/1/05 therebelow.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Holmes et al. (4,564,350).

Holmes et al teach a die plate (Fig 4, including #s 96, 97, 98 and 104) for an extrusion apparatus, the die plate having first coupling means (Fig 4) for coupling the die plate on a first side thereof to an extruder defining a longitudinal axis (Fig 4, #60); apertures (Fig 4, #39), through which extrudate is received from the extruder and extruded for cutting into predetermined lengths by a cutter assembly (Fig 4, #38 and #50, the cutter assembly is interpreted to include the die plate because the pellets are cut against the surface of the die plate) disposable on the longitudinal axis, the cutter assembly having a motor (Fig 1, #54) for rotating a cutter transversely to the longitudinal axis into the path of movement of extrudate so as to sever the extrudate in use; the die plate having second coupling means for coupling the die plate on a second side thereof to the cutter assembly (Fig 4); a fluid inlet passage (Fig 3, #116) for receiving fluid into

Art Unit: 1722

the die plate for deliver to the cutter assembly in use, and a fluid outlet passage (Fig 3, #118) for receiving fluid from the cutter assembly for discharge from the die plate, wherein the fluid outlet passage and the fluid inlet passage have separate passages (passages 116 and 118 are separate from one another).

3. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Dudley (4,123,207).

Dudley teaches a die plate (Fig 4, #801) for an extrusion apparatus, the die plate having first coupling means (Fig 4) for coupling the die plate on a first side thereof to an extruder defining a longitudinal axis (Fig 4, #400); apertures (Fig 4), through which extrudate is received from the extruder and extruded for cutting into predetermined lengths by a cutter assembly (Fig 4, at #812, the cutter assembly is interpreted to include the die plate because the pellets are cut against the surface of the die plate) disposable on the longitudinal axis, the cutter assembly having a motor (col 4, lines 38-44) for rotating a cutter transversely to the longitudinal axis into the path of movement of extrudate so as to sever the extrudate in use; the die plate having second coupling means for coupling the die plate on a second side thereof to the cutter assembly (Fig 4); a fluid inlet passage (Fig 3, #404) for receiving fluid into the die plate for deliver to the cutter assembly in use, and a fluid outlet passage (Fig 3, #406) for receiving fluid from the cutter assembly for discharge from the die plate, wherein the fluid outlet passage and the fluid inlet passage have separate passages (although different elements interconnect 404 and 406, these two elements are separate).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-2, 4-5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. (4,564,350) in view of Guggiari (5,110,523).

Holmes et al teach a die plate (Fig 4, #38) for an extrusion apparatus, the die plate having first coupling means (Fig 4) for coupling the die plate on a first side thereof to an extruder defining a longitudinal axis (Fig 4, #60); apertures (Fig 4, #39), through which extrudate is received from the extruder and extruded for cutting into predetermined lengths by a cutter assembly (Fig 4, #38 and #50, the cutter assembly is interpreted to include the die plate because the pellets are cut against the surface of the die plate) disposable on the longitudinal axis, the cutter assembly having a motor (Fig 1, #54) for rotating a cutter transversely to the longitudinal axis into the path of movement of extrudate so as to sever the extrudate in use; the die plate having second coupling means for coupling the die plate on a second side thereof to the cutter assembly (Fig 4); a fluid inlet passage (Fig 3, #116) for receiving fluid into the die plate for deliver to the cutter assembly in use, and a fluid outlet passage (Fig 3, #118) for receiving fluid from the cutter assembly for discharge from the die plate, wherein the fluid outlet passage and the fluid inlet passage have separate passages (passages 116 and 118 are separate from one another); the die plate has a peripheral edge adjoining the first and second sides, the fluid inlet passage and fluid outlet passage each having a radial portion extending radially through the peripheral edge toward a central area of the die plate where each passage terminates in a respective longitudinal portion extending through the second side of the die plate (Figs 3 and 4); including thermal insulation means between the fluid inlet and outlet passages and the extrudate apertures (Fig 6); the thermal insulation means has a gap into which a gas may enter (Fig 4).

Holmes et al. fails to teach the motor being a fluid driven motor.

Art Unit: 1722

Guggiari teaches a hydraulic (fluid driven) motor for the purposes of operating a cutter in an extrusion apparatus (col 3, lines 45-58).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Holmes et al. with a motor driven cutter wherein the motor is hydraulic as taught by Guggiari because it facilitates controlling and keeping constant at a predetermined value the contact pressure of cutting elements against a die (col 1, lines 8-14 and col 4, lines 3-19).

8. Claims 1-2, 4-5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dudley (4,123,207) in view of Guggiari (5,110,523).

Dudley teaches a die plate (Fig 4, #801) for an extrusion apparatus, the die plate having first coupling means (Fig 4) for coupling the die plate on a first side thereof to an extruder defining a longitudinal axis (Fig 4, #400); apertures (Fig 4), through which extrudate is received from the extruder and extruded for cutting into predetermined lengths by a cutter assembly (Fig 4, at #812, the cutter assembly is interpreted to include the die plate because the pellets are cut against the surface of the die plate) disposable on the longitudinal axis, the cutter assembly having a motor (col 4, lines 38-44) for rotating a cutter transversely to the longitudinal axis into the path of movement of extrudate so as to sever the extrudate in use; the die plate having second coupling means for coupling the die plate on a second side thereof to the cutter assembly (Fig 4); a fluid inlet passage (Fig 3, #404) for receiving fluid into the die plate for deliver to the cutter assembly in use, and a fluid outlet passage (Fig 3, #406) for receiving fluid from the cutter assembly for discharge from the die plate, wherein the fluid outlet passage

Art Unit: 1722

and the fluid inlet passage have separate passages (although different elements interconnect 404 and 406, these two elements are separate); the die plate has a peripheral edge adjoining the first and second sides, the fluid inlet passage and fluid outlet passage each having a radial portion extending radially through the peripheral edge toward a central area of the die plate where each passage terminates in a respective longitudinal portion extending through the second side of the die plate (Figs 3 and 4); including thermal insulation means between the fluid inlet and outlet passages and the extrudate apertures (Fig 4); the thermal insulation means has a gap into which a gas may enter (Fig 4).

Dudley fails to teach the motor being a fluid driven motor

Guggiari teaches a hydraulic (fluid driven) motor for the purposes of operating a cutter in an extrusion apparatus (col 3, lines 45-58).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Dudley with a motor driven cutter wherein the motor is hydraulic as taught by Guggiari because it facilitates controlling and keeping constant at a predetermined value the contact pressure of cutting elements against a die (col 1, lines 8-14 and col 4, lines 3-19).

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. (4,564,350) and Guggiari (5,110,523) in view of Meakin (2,764,952).

Holmes et al. teach the apparatus as discussed above and also teaches the first coupling means having a plurality of mounting openings for receiving respective fasteners through the die plate (Fig 4).

Art Unit: 1722

Holmes et al. fail to teach the second coupling means having an opening for receiving a respective fastener through the die plate.

Meakin teaches a second coupling means having an opening (Fig 1, the opening though which #29 projects) for the purpose of receiving a respective fastener (Fig 1, #29) through the die plate (Fig 1, #s 9 and 21).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Holmes et al with a coupling means having an opening for receiving a fastener through a die plate as taught by Meakin because it enables a closer consolidation of the parts of the apparatus such that the mechanism for rotating the cutters is within the extruder casing, not outside of it.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dudley (4,123,207) and Guggiari (5,110,523) in view of Meakin (2,764,952).

Dudley teaches the apparatus as discussed above and also teaches the first coupling means having a plurality of mounting openings for receiving respective fasteners through the die plate (Fig 3, #825).

Dudley fails to teach the second coupling means having an opening for receiving a respective fastener through the die plate.

Meakin teaches a second coupling means having an opening (Fig 1, the opening though which #29 projects) for the purpose of receiving a respective fastener (Fig 1, #29) through the die plate (Fig 1, #s 9 and 21).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Dudley with a coupling means

Art Unit: 1722

having an opening for receiving a fastener through a die plate as taught by Meakin because it enables a closer consolidation of the parts of the apparatus such that the mechanism for rotating the cutters is within the extruder casing, not outside of it.

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al. (4,564,350) in view of Meakin (2,764,952).

Holmes et al. teach the apparatus as discussed above and also teaches the first coupling means having a plurality of mounting openings for receiving respective fasteners through the die plate (Fig 4)

Holmes et al. fails to teach the second coupling means having a plurality of mounting openings for receiving respective fasteners through the die plate.

Meakin teaches a second coupling means having an opening (Fig 1, the opening through which #29 projects) for the purpose of receiving a respective fastener (Fig 1, #29) through the die plate (Fig 1, #s 9 and 21).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Holmes et al with a coupling means having an opening for receiving a fastener through a die plate as taught by Meakin because it enables a closer consolidation of the parts of the apparatus such that the mechanism for rotating the cutters is within the extruder casing, not outside of it.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dudley (4,123,207) in view of Meakin (2,764,952).

Art Unit: 1722

Dudley teaches the apparatus as discussed above and also teaches the first coupling means having a plurality of mounting openings for receiving respective fasteners through the die plate (Fig 4, #825)

Dudley fails to teach the second coupling means having a plurality of mounting openings for receiving respective fasteners through the die plate.

Meakin teaches a second coupling means having an opening (Fig 1, the opening through which #29 projects) for the purpose of receiving a respective fastener (Fig 1, #29) through the die plate (Fig 1, #s 9 and 21).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Dudley with a coupling means having an opening for receiving a fastener through a die plate as taught by Meakin because it enables a closer consolidation of the parts of the apparatus such that the mechanism for rotating the cutters is within the extruder casing, not outside of it.

Allowable Subject Matter

13. Claims 6-13, 19 and 21 are allowed.

Response to Arguments

14. Applicant's arguments filed 9/1/05 have been fully considered but they are not persuasive.

The Applicant argues that Holmes does not disclose a die plate having a fluid inlet passage and a fluid outlet passage because the die plate of Holmes is merely #96. The Applicant further argues that the passages 116 and 118 do not reach the die plate due to insulating ring #98.

Art Unit: 1722

The Examiner disagrees. The die plate as claimed is not merely represented by Holmes' #96 but rather by #s 96, 97, 98 and 104. Through each of these abutting elements extrudable material travels in order to be shaped then cut by the die cutter. As broadly interpreted, Holmes does teach the claimed die plate with inlet and outlet passages.

The Applicant argues that Dudley does not teach a die plate having separate fluid inlet and outlet passages because Dudley sets out that steam entry 404 and exit 406 are a continuous pathway.

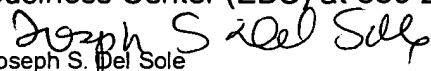
The Examiner disagrees. The claim sets forth "the fluid outlet passage and the fluid inlet passage comprise separate passages". Elements 404 and 406 of Dudley are separate passages within a single pathway. 404 separately acts as an entrance passage and 406 separately acts as an exit passage, together acting in a single pathway. Furthermore, passages 404 and 406 are separated by 410.

Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, Mr. Duane Smith can be reached at (571) 272-1166. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).


Joseph S. Del Sole
August 8, 2005